

ORIGINAL

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:) MM Docket No. 94-8
)
Amendment of Section 73.202(b),) RM-8478
Table of Allotments,)
FM Broadcast Stations,)
(Driscoll, Gregory and)
Robstown, Texas))

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS OF REDING BROADCASTING COMPANY, INC.

1. Reding Broadcasting Company, Inc. (Reding) opposes the change in FM channel allotments sought by the petitioner reflected in the Commission's rulemaking notice as contrary to the public interest.

2. The petitioner, a Class A FM station in Robstown, Texas, wants to upgrade its facilities to a Class C3 FM station. It filed a petition seeking to do so while retaining the substitute channel in Robstown, which is a respectable size community (population 12,468) and currently has three commercial radio stations licensed to it including the petitioner's station.¹ Robstown is located in the Corpus Christi, Texas, metropolitan statistical area (MSA) and the Robstown radio stations are included in the Corpus Christi radio market, ranked 130th in the nation.² The petitioner's station is one of a number of stations

¹ Engineering material attached to petition for rulemaking to upgrade petitioner's station while remaining licensed to Robstown, filed December 14, 1993, dismissal request filed March 15, 1994, RM-8422; Broadcasting & Cable Yearbook 1994 at B-371.

² United States Census, 1990; Broadcasting & Cable Yearbook 1994 at B-592.

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broadcasting Spanish language programming in that market.³

3. The day after requesting dismissal of its Robstown upgrade petition, the petitioner filed the instant petition attempting to accomplish the upgrade by proposing to remove its existing FM channel from Robstown and to allocate the substitute channel to a town called Driscoll, Texas. Driscoll has a population of 688 persons. The petition says little else about the community except to state that it is incorporated with a police force and school district.⁴

4. According to the petitioner, licensing an upgrade by changing a Class A FM station in Robstown (population 12,468) into a Class C-3 FM station in Driscoll (population 688) will serve the public interest by providing Driscoll with its first local outlet, particularly since the petitioner provides Spanish language programming service. Neither reason makes sense. There is no value in wasting a Class C-3 frequency in a tiny town of that size, the Spanish population of which obviously must be an

³ Broadcasting & Cable Yearbook 1994 at B-356, B-357, B-371 and B-567.

⁴ Under Commission policy, a demographic showing is to be made in the rulemaking papers where there is a comparison between communities under Section 307(b) of the Communications Act, 47 U.S.C. §307(b). FM Assignment Policies and Procedures, 90 FCC2d 88, 51 RR2d 807, 816-17 (1981). Here, the petitioner seeks to remove the only frequency allocated to Gregory, Texas (population 2,458) and one of only three frequencies allocated to Robstown, Texas (population 12,468) to accommodate the allocation of a single frequency to Driscoll (population 688). Surely, a comprehensive and persuasive demographic showing must be forthcoming in the comments to be filed by the petitioner if it has any hopes of convincing the Commission that such a regulatory change would serve the public interest under Section 307(b).

infinitesimal portion of the Spanish population in Robstown and the Corpus Christi metropolitan statistical area.

5. To make matters worse, the petitioner has neglected to inform the Commission that the community of Driscoll, like the community of Robstown, is located within the Corpus Christi MSA and that its radio station, if licensed to Driscoll, will still be a part of the Corpus Christi radio market no less that its radio station is currently part of that market as licensed to Robstown.⁵ In sum, the petitioner's dismissal of its Robstown upgrade petition and simultaneous refiling of a Driscoll upgrade petition is a cynical maneuver in which the petitioner has failed to disclose the full, relevant information to the Commission, needed by this agency in order to understand and evaluate the proposal before it.

6. Whether the proposal is viewed as an upgrade for Robstown or for Driscoll, in addition to the substitution of a C-3 channel for the petitioner's existing A channel, the Commission must also delete another existing A channel from the community of Gregory, Texas, population 2,458. This takes away the only local frequency allotted to Gregory. While the initial construction permit for that frequency has been cancelled, the channel has been allocated only since 1988 and it is premature to give up on the channel -- and remove it from the table of assignments altogether -- at this point in time. This is particularly so in light of the proposed addition to the table of assignments of a

⁵ United States Census, 1990.

channel to provide a first local outlet for a tiny town barely one fourth the size of Gregory, itself a town of modest size. Indeed, the petitioner argues that Gregory is too small to support a station while in the very same breath that it proposes to locate the station in the much smaller community of Driscoll.


7. The rulemaking decisions cited in the petition do not remotely support what the petitioner is trying to do here. In Cleveland and Ebenezer, Mississippi, 8 FCC Rcd. 2739, 8654 (1993), the Commission approved an upgrade of an FM station while remaining in its existing community of license (Cleveland, Mississippi, population 14,524) while deleting another FM allocation to a community having a population of 100 to 150 persons (Ebenezer, Mississippi). Here, the petitioner wants to delete an FM allocation from a town having a population of 2,458 (Gregory) and move an allocation away from a town having a population of 12,849 (Robstown) in order to provide a local outlet for a town having a population of 688 (Driscoll).

8. In Northport, Alabama and Macon, Mississippi, 8 FCC Rcd. 2161 (1993), the Commission approved an upgrade of an FM station while remaining in its existing community of license (Northport, Alabama, population 14,291) while deleting another FM allocation from a community having a population of 2,396 (Macon, Mississippi) for which the assigned allocation had lain fallow for seven years (1986-1993). Here, the petitioner wants to delete an FM allocation from a town having a population of 2,458

(Gregory) and also to delete an allocation from a town having a population of 12,849 (Robstown) in order to provide a local outlet for a town having a population of 688 (Driscoll).

9. In Gladwin, Michigan, 7 FCC Rcd. 4175 (1992), the Commission approved an upgrade of an FM station while remaining in its existing community of license (Owosso, Michigan, population 16,000, having two radio stations, the FM station in question and a companion AM station), while deleting a third and unused commercial frequency from a town having two existing local radio stations remaining (Gladwin, Michigan, population 23,200), arriving at a fair and equitable balance between these two communities. Here, once again, the petitioner would delete the only frequency from a town having a population of 2,458 (Gregory) and would also delete another frequency from a town having a population of 12,849 (Robstown) in order to provide a local outlet for a community the size of 688 (Driscoll).

Respectfully submitted,



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September 19, 1994

CERTIFICATE OF SERVICE

I, Kathryn M. Damm, an administrative assistant of Bechtel & Cole Chartered, hereby certify that, on this 19th day of September, 1994, I caused to be served by hand a copy of the foregoing "Comments of Reding Broadcasting Company, Inc" addressed to the following:

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/s/ Kathryn M. Damm
Kathryn M. Damm